



**Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)**

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-14601
Financial institutions—Income apportionment.**

Date last adopted: **July 1, 1997**

Reviewer: **JoAnne Gordon**

Date review completed: **September 13, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** **NO**

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

WAC 458-20-14601 provides tax-reporting instructions for financial institutions doing business both inside and outside the state of Washington.

2. Need:

| YES | NO | |
|------------|-----------|---|
| X | | Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?) |
| | X | Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision? |
| | X | Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.) |
| X | | Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the recommendation must be to repeal the document.) |

Please explain.



RCW 82.04.460 (2), Business within and without state – Apportionment, explains that financial institutions must apportion or allocate gross income taxable under RCW 82.04.290 (e.g., service and other activities B&O tax) pursuant to rules issued by the Department consistent with uniform rules for apportionment or allocation developed by other states.

With considerable participation in the rule-making process by the financial industry, WAC 458-20-14601 was first adopted effective July 1, 1997. As adopted, however, the rule allowed two and a half year transition period for financial institutions to comply with WAC 458-20-14601. During this transition period, financial institutions were able to continue apportioning income in accordance with RCW 82.04.460(1) and WAC 458-20-194 until January 1, 2000.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

| YES | NO | |
|-----|----|--|
| | X | Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.) |
| | X | Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.) |
| | X | Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule? |
| | X | Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule? |

(b)

| YES | NO | |
|-----|----|--|
| | | Should this ancillary document be incorporated into a rule? |
| | | Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document? |
| | | Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document? |

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.





4. Clarity and Effectiveness:

| YES | NO | |
|-----|----|--|
| X | | Is the document written and organized in a clear and concise manner? |
| X | | Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.) |
| X | | Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?) |
| | X | Do changes in industry practices warrant repealing or revising this document? |
| | X | Do any administrative changes within the Department warrant repealing or revising this document? |

Please explain.

5. Intent and Statutory Authority:

| YES | NO | |
|-----|----|---|
| X | | Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.) |
| X | | Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.) |
| | X | Is there a need to recommend legislative changes to the statutes being implemented by this document? |

Please explain.

RCW 82.32.300, Department of Revenue to Administer, provides the Department with the general authority to “make and publish rules and regulations” necessary for the reporting of taxes imposed under the various chapters of Title 82 RCW.

RCW 82.04.460 (2), Business within and without state – Apportionment, provides the Department with specific authority to promulgate a rule under which financial institutions may apportion or allocate taxable income in a manner that is consistent with uniform rules adopted by the states.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

| YES | NO | |
|-----|----|---|
| | X | Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency? |

Please explain.



7. **Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

| YES | NO | |
|-----|----|--|
| X | | Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.) |

Please explain.

A Cost Benefit Analysis was completed when this rule was last revised.

8. **Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

| YES | NO | |
|-----|----|---|
| X | | Does the document result in equitable treatment of those required to comply with it? |
| | X | Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community? |
| | X | Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community? |

Please explain.

9. **LISTING OF DOCUMENTS REVIEWED:** (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **To the extent the following apply to financial institutions doing business both within and without the state:**

RCW 82.04.460 Business within and without state – Apportionment

RCW 82.04.290 Tax on . . . other business or service activities

RCW 82.04.220 Business and occupation tax imposed

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

Det. No. 99-121, 19 WTD 153 (2000) – issues related to 109 and 194. Discussion as to whether taxpayer qualified for the lower financial business services classification (repealed effective July 1, 1998). In a footnote, determination concluded that taxpayer



may qualify as financial institution under WAC 458-20-14601 as of the rule’s effective date, July 1, 1997. No need to incorporate or reference in rule.

Attorney General’s Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

- Amend
- Repeal
- Leave as is
- Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)
- Incorporate ancillary document into a new or existing rule. (Subject of this review must an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you’ve identified/recommended earlier in this review document.)

With considerable participation in the rule-making process by the financial industry, WAC 458-20-14601 was first adopted effective July 1, 1997, Throughout the rule-making process, the Department committed itself to studying the implementation of the rule. As adopted, however, the rule allowed two and a half year transition period for financial institutions to comply with WAC 458-20-14601. During this transition period, financial institutions were able to continue apportioning income in accordance with RCW 82.04.460(1) and WAC 458-20-194 until January 1, 2000. As many financial business have only recently begun to apportion income as provided by WAC 458-20-14601, there is yet no identifiable need to revise the current rule.

11. Manager action: Date: _____

- Reviewed recommendation Accepted recommendation
- Returned for further action

Comments: